

EXHIBIT D

OFFICE OF SPECIAL INVESTIGATIONS
INVESTIGATIVE REPORT



Department of
Education
Chancellor Richard A. Carranza

Howard Friedman
General Counsel

July 24, 2018

Charity M. Guerra
Executive Deputy Counsel

Re: Patricia Cummings, Teacher, Non-Tenured, File # [REDACTED]
10X118 – William N. Niles

Jaclyn B. Vargo
Director

OSI Case #18-00494X

Christina Nowak
Deputy Director

ORIGIN OF COMPLAINT

On January 18, 2018, the Office of Special Investigations (“OSI”) received a complaint concerning the conduct of Patricia Cummings, teacher. Giulia Cox, principal, reported that, on January 10, 2018, during a lesson on the Middle Passage,¹ Ms. Cummings showed a video depicting the conditions on slave ships and some students laughed, which Ms. Cummings found to be unacceptable. Principal Cox alleged that Ms. Cummings then had four students, including Student A, sit on the floor very close together to reenact the conditions on a slave ship. Principal Cox further alleged that Ms. Cummings pushed Student A’s back with her knee and asked if it hurt or caused her discomfort. According to Principal Cox, Ms. Cummings may have pushed her knee into Student A’s back because Student A was one of the students who laughed during the screening of the video depicting the conditions on slave ships.

During the course of the investigation, Principal Cox alleged additional academic policy violations against Ms. Cummings. She specifically alleged that Ms. Cummings failed to secure Ms. Cox’s pre-approval to show the video at issue, and that Ms. Cummings failed to create lesson plans for the material she was covering. Ms. Cox went on to explain that Ms. Cummings must follow the approved New York City Department of Education Social Studies curriculum and the lesson at issue did not do so.

¹ The Middle Passage refers to the sea route taken by slave ships between West Africa and the West Indies during the Atlantic Slave trade.

RESULTS OF INVESTIGATION**STUDENT WITNESSES INTERVIEWED:²**

On February 5, 2018, the assigned investigator was present at X118 to interview Students B through K³ regarding the aforementioned allegations; all student interviews were conducted in the presence of Supervising Investigator [REDACTED] and Principal Cox.⁴

Student B, [REDACTED]-year-old [REDACTED], 7th grade:

Student B recalled the incident in question and he confirmed that Ms. Cummings showed class 408 a video about slavery. He explained that Ms. Cummings called Students A, C, D and E to the front of the classroom to participate in a demonstration, but he was unaware why she selected this group of students. He believed Student A was selected because earlier she stated that it did not look difficult to sit how the slaves were sitting on the boat in the video. Student B added that Ms. Cummings did not call on him to participate in the demonstration.

Student B did not recall the order in which the students in the demonstration sat. He denied that Ms. Cummings used her feet or her knees to push students closer together during the demonstration. According to Student B, during the demonstration, Student A said she could sit in that position all day. Ms. Cummings asked the students to move closer together and shifted their positions by placing her hands on the students' upper backs. He noted that the participating students were laughing during the demonstration and they did not appear to be in any distress or discomfort. According to Student B, the demonstration lasted a short time and, upon completion, the students returned to their desks. Student B reported that he believed that [REDACTED] teacher, was present during the demonstration. The undersigned showed Student B a copy of a written statement he made regarding the incident and he verified that he made the written statement and that it was accurate.

Student D, [REDACTED]-year-old [REDACTED], 7th grade:

Student D recalled the incident in question and stated that Ms. Cummings showed class 408 a video about slavery. He explained that the video depicted slaves seated in close proximity to each other, in addition to very inhumane conditions and poor treatment. According to Student D, Ms. Cummings selected a random group of students that included Students A, B, C, and E to participate in a demonstration, but he was unaware why this group of students was selected. Student D

² Student A's parents refused to permit her to be interviewed by the assigned investigator. As a result, Student A was not interviewed during the course of this investigation.

³ Student C moved away from the New York City area and, as a result, was not interviewed during the course of this investigation. Student G was interviewed but not present during the class in question and no information relevant to this investigation was obtained during his interview. As a result, a summary of his interview is not contained in this report. A summary of his interview is maintained in the case file.

⁴ On February 5, 2018, the assigned investigator interviewed Students L through P. Students L through P were enrolled in class 407, a social studies class taught by Ms. Cummings. The alleged incident took place in class 408, so no information relevant to the incident in question was obtained during these interviews. As a result, summaries of these interviews are not contained in this report. Summaries of interviews for Students L through P are maintained in the case file.

explained that Ms. Cummings instructed the students to sit on the floor, close together in a back-to-back fashion, with their knees against their chests. He noted that Student B objected to the demonstration and Ms. Cummings did not force him to participate. Student D stated that Ms. Cummings requested the students move closer to one another and that Ms. Cummings used the in-step of her foot to slide Student A closer to another student. He noted that no student was laying on the floor at any time during the demonstration. According to Student D, Student A said that she was comfortable, while Student E said he was uncomfortable during the demonstration. Student D reported that the demonstration concluded and the students returned to their desks. He noted that [REDACTED] was present during the demonstration. The undersigned showed Student D a copy of a written statement he made regarding the incident and he confirmed that he wrote the statement and that it was accurate.

Student E, [REDACTED]-year-old [REDACTED], 7th grade:

Student E recalled the incident in question and she confirmed that Ms. Cummings showed class 408 a video about slavery. She stated that, during the lesson, Ms. Cummings told Students A, B, C, D and herself to get up from their seats and come to the front of the classroom. She noted that Student C refused to participate and he returned to his seat. According to Student E, she and Students A, B and D sat side-by-side with their knees at their chests. She stated that Ms. Cummings instructed the students to move closer together, which they did. Student E reported that Ms. Cummings asked the students how it felt to be a slave and Student A responded, "It feels comfortable." She explained that Ms. Cummings put her feet under Student A's rear and used her feet to slide Student A closer to the other students. Student E noted that she was unaware why Ms. Cummings selected this group of students to participate in the demonstration, but she added that all of the students sat in the same general area of the classroom. She denied that Student A ever said she was in pain or uncomfortable during the demonstration. When asked how the demonstration made Student E feel, she responded, "I honestly did not care." The undersigned showed Student E a copy of a written statement she made regarding the incident and she confirmed that she wrote the statement and that it was accurate.

Student F, [REDACTED]-year-old [REDACTED], 7th grade:

Student F stated that he was not present in class on the date of the incident in question. He reported that Students A and D sat at a table together at the front of the classroom and Students B and E sat together at a table at the back of the classroom. He noted that he believed that the students who participated in the demonstration thought it was funny, based on his conversations with classmates after the incident occurred.

Student H, [REDACTED]-year-old [REDACTED], 7th grade:

Student H recalled attending Ms. Cummings' social studies class and viewing a video that depicted slaves on a ship. Student H reported that Student D arrived late to class on that day and started making jokes about the video. According to Student H, Ms. Cummings selected Students A, B, C, and D to participate in the demonstration because some of these students were not taking the lesson seriously. She noted that Ms. Cummings selected students from varying areas of the classroom. Student H stated that, during the demonstration, Student A continued to disregard the importance

of the lesson. She did not recall the order that the students sat in, but she noted that the students sat in a line side-by-side. Student H reported that Ms. Cummings asked the students how they felt and Student A said she "felt fine." She explained that Ms. Cummings used the in-step of her foot to give Student A "a little shove" to move her closer to another student. Student H noted that this contact was not aggressive. She added that Ms. Cummings used her hands to move Student A closer to another student by pushing her on the shoulders. Student H stated that she felt uncomfortable during the video and during the demonstration. She denied that any other adults were present in the classroom during the demonstration. The undersigned showed Student H a written statement she made regarding the incident and she confirmed that she wrote the statement and that it was accurate.

Student I, [REDACTED] year-old [REDACTED], 7th grade:

Student I recalled attending Ms. Cummings social studies class and watching a video depicting slaves on a ship. She explained that, during the course of the lesson, Ms. Cummings selected four students to come to the front of the classroom and she had them sit on the floor. She noted that Ms. Cummings selected Students A, B, C and D to participate, but Student C refused to participate so he remained at his seat. According to Student I, the students sat in a line and were asked to raise their knees to their chest; no students were told to lay on their back or on their stomach. Student I stated that she believed that Ms. Cummings selected these students because they were talking during the lesson and not taking it seriously. She added that she felt the subject selected these students in part due to their dark skin complexion. She could not recall the order the students sat in, but she noted that Student A continued to not take the lesson seriously. Student I reported that Ms. Cummings asked the students how it felt to be seated in such close proximity to one another and Student A responded, "It is not bad." Student I stated that Ms. Cummings then placed her hands on Student A's upper shoulder and back region and pushed her closer to the student seated in front of her. She added that Ms. Cummings also used the instep of her foot to "scoot" Student A forward by pushing on her rear end. Student I noted that at no time did Student A appear uncomfortable or state that she was in pain. She added that Student A was laughing at times during the demonstration. Student I stated that she did not believe that Ms. Cummings was attempting to harm Student A and she never observed Ms. Cummings' knee make contact with Student A. She explained that after the demonstration the students returned to their seats. She added that she did not feel uncomfortable during the video or during the demonstration. The undersigned showed Student I a copy of a written statement she made regarding the incident and she confirmed that she wrote the statement and that it was accurate.

Student J, [REDACTED] year-old [REDACTED], 7th grade:

Student J recalled attending Ms. Cummings' social studies class and viewing a video depicting slaves on a ship. He stated that, during the lesson, Students A and C made comments that they could sit how the slaves were seated on the ship in the video and that the position the slaves were seated in did not appear uncomfortable. Student J explained that Ms. Cummings called Students A and C to the front of the classroom and had them sit with their legs crossed "Indian-style." He noted that Students A and C were elbow-to-elbow with each other. According to Student J, Ms. Cummings asked Students A and C to move closer to each other and he noted that the participating students and the other students in the class were laughing during the demonstration. He added that

Ms. Cummings responded by asking, "How is this funny?" Student J reported that Student A was not taking the lesson seriously; she was "waddling" around the classroom mocking the video. He noted that the lesson ended with Ms. Cummings asking the students to return to their desks. He denied that Ms. Cummings asked the students to lay on the ground during the demonstration. He also denied that Ms. Cummings made any physical contact with the students during the demonstration and noted that she was never close enough to the students to make contact with them. Student J did not recall Ms. Cummings asking any other students to participate in the demonstration. Student J asserted that Student A was lying and was attempting to get Ms. Cummings fired or in trouble because Student A did not like Ms. Cummings. He added that Student A had been going around the school bragging that she was going to get Ms. Cummings fired, which angered Student J because he believed Ms. Cummings was a good teacher. The undersigned showed Student J a copy of a written statement he made regarding the incident and he confirmed that he wrote the statement and that it was accurate.

Student K, [REDACTED] year-old [REDACTED], 7th grade:

Student K recalled viewing a video that depicted black slaves on a ship in Ms. Cummings' social studies class. She denied that Ms. Cummings had students demonstrate how slaves sat in the ships by having students sit on the classroom floor. She noted that she was not uncomfortable with the content of the video shown in Ms. Cummings' class. Student K stated that she was friends with Student A and she reiterated that she did not observe Student A participating in a demonstration related to the video. She added that she did not observe Student A seated on the classroom floor during any lesson in Ms. Cummings' class.

DOE AND/OR NON-DOE STAFF WITNESSES INTERVIEWED:⁵

Giulia Cox, Principal:

On February 5, 2018, the assigned investigator interviewed Principal Cox, at X118, regarding the aforementioned allegations.⁶ Principal Cox stated that, on January 10, 2018, Ms. Cummings provided instruction to class 408 regarding a lesson on the Middle Passage and the transport of African-American slaves to the new colonies. She explained that Ms. Cummings elected to show a video that depicted the conditions of slave ships. According to Principal Cox, she did not pre-approve the viewing of this video nor were there any established lesson plans created by Ms. Cummings. Principal Cox stated that she had previously explained to Ms. Cummings that she was required to follow the approved New York City DOE Social Studies Curriculum.⁷ She added that

⁵ On March 27, 2018, the assigned investigator interviewed [REDACTED], teacher, and [REDACTED], paraprofessional, regarding the aforementioned allegations. Neither [REDACTED] nor [REDACTED] provided information relevant to this investigation during their interviews. As a result, summaries of their interviews are not contained in this report. Summaries of their interviews are maintained in the case file.

⁶ OSI Investigator [REDACTED] was present during Principal Cox's interview.

⁷ Principal Cox provided the assigned investigator with documents detailing the New York City DOE Social Studies Curriculum. The referenced documents are maintained in the case file.

Ms. Cummings was informed that her curriculum also had to conform to the New York State Social Studies Framework.⁸

Principal Cox reported that, during the aforementioned lesson in Ms. Cummings' class, several students began laughing or not taking the lesson seriously. She explained that four students were selected, she believed because they were talking during the video, to come to the front of the classroom and sit on the floor. Principal Cox stated that the purpose of this exercise was to show the class how slaves were situated in close quarters and this demonstration led Student A and Mother A to make a complaint to the school.

Principal Cox reported that the complaint was initially referred to the Office of Equal Opportunity and Diversity Management ("OEO"). She explained that OEO declined to investigate the complaint and referred the investigation back to Principal Cox to complete. Principal Cox stated that, on January 11, 2018, Courtney Ware, assistant principal ("AP"), advised her that Student A reported that she felt uncomfortable during Ms. Cummings' lesson the previous day. Principal Cox explained that she had AP Ware collect written statements from students in the class and provide them to her.

Principal Cox stated that, on January 17, 2018, Mother A was present at X118 and filed a written complaint with her regarding the actions of Ms. Cummings. According to Principal Cox, on January 18, 2018, she learned that in Mother A's written complaint she alleged that Ms. Cummings used her knee to press into Student A's back while she was seated on the floor during the demonstration. She explained that she understood this allegation potentially constituted corporal punishment, so she referred the case to OSI and took no further action.

Principal Cox reported that the selection of students who made written statements about the incident in question was a random selection of students from class 408. Principal Cox stated that a substitute teacher [REDACTED] was present in the classroom during the incident in question.⁹ Principal Cox reported that Ms. Cummings had a second social studies class, class 407, that was provided a similar lesson, but she believed there was no demonstration similar to the one conducted during class 408.¹⁰

Courtney Ware, Assistant Principal:

On March 27, 2018, the assigned investigator interviewed AP Ware, at X118, regarding the aforementioned allegations. AP Ware stated that Principal Cox instructed her to obtain written statements from students regarding the incident in question. She explained that she obtained the written statements in a group setting and she noted that she obtained only one set of statements. AP Ware reported that students were talking to each other during the collection of the written

⁸ Principal Cox provided the assigned investigator with document detailing the New York State Social Studies Framework. The referenced documents are maintained in the case file.

⁹ [REDACTED] failed to respond to several attempts at contact by the assigned investigator; upon information and belief, he now attends a graduate program at [REDACTED]

¹⁰ The assigned investigator obtained lists of students enrolled in class 407 and class 408. Copies of the referenced documents are maintained in the case file.

OSI Case #18-00494X

statements, but their discussions were not related to the incident in question. She added that she provided the written statements to Principal Cox.

Teacher:

On March 27, 2018, the assigned investigator interviewed [REDACTED] teacher, at X118, regarding the aforementioned allegations.¹¹ [REDACTED] stated that he is currently in a teacher fellows program and he was a co-teacher with Ms. Cummings for the lesson in question. He noted that he was not present during the lesson for class 408. According to [REDACTED] he had an issue with the lesson on the Middle Passage provided to class 407 due to the teaching methods employed by Ms. Cummings and he felt the lesson had little connection to the Middle Passage. [REDACTED] stated that, during the lesson, Ms. Cummings asked volunteers to participate in a demonstration and Student O volunteered to participate. He explained that Student O laid on the floor, while Ms. Cummings used a ruler to provide measurements to show how close the quarters were for slaves during transportation. He noted that Student O did not appear uncomfortable and she was laughing during the demonstration. [REDACTED] stated that a second demonstration was held during the lesson and a group of students were called to the front of the classroom and asked to lineup in close proximity to one another. He explained that, after the lesson was completed, he reported the situation to Principal Cox, as what transpired in the classroom offended him.

Teacher:

On March 27, 2018, the assigned investigator interviewed [REDACTED] teacher, at X118, regarding the aforementioned allegations.¹² [REDACTED] stated that she is the United Federation of Teachers ("UFT") Chapter Leader at X118 and she was present during the disciplinary meeting between Principal Cox and Ms. Cummings held on January 18, 2018. She explained that there was no discussion during the meeting regarding an allegation of corporal punishment against Ms. Cummings and she explained that the meeting related to concerns about the manner in which Ms. Cummings delivered her lesson plan. According to [REDACTED] during the meeting, Ms. Cummings acknowledged "nudging" students to move them closer together, but she denied using her knee. [REDACTED] noted that the disciplinary meeting was concluded without a determination being made by Principal Cox regarding what action to take in relation to the situation.

Teacher:

On March 27, 2018, the assigned investigator interviewed [REDACTED] at X118, regarding the aforementioned allegations.¹³ [REDACTED] reported that he was on his prep period during the lesson in question for class 408, and was in and out of the classroom. He noted that he was present in the classroom during the physical demonstration and video related to slave ships. He explained that, as an African-American, he took no issue with the contents of the lesson. He described the lesson as appropriate and stated that he felt the lesson was within the scope of effectively educating students about the harsh conditions endured by slaves during transport. According to [REDACTED]

¹¹ OSI Investigator [REDACTED] was present during [REDACTED] interview.

¹² OSI Investigator [REDACTED] was present during [REDACTED] interview.

¹³ OSI Investigator [REDACTED] was present during [REDACTED] interview.

several students in the class were laughing and joking during the video, so Ms. Cummings paused the video and explained that the class needed to respect the material and take it seriously.

██████████ reported that Ms. Cummings asked for volunteers for a demonstration, and several students agreed to participate. He noted that Ms. Cummings advised the students that the demonstration would involve them sitting on the floor and added that Student C then decided to opt-out of the demonstration. ██████████ explained that Students A and D were seated on the floor and asked to move closer together. He stated that Ms. Cummings put her hands on the upper back of the one of the students and requested the student continue to move closer to the other student. ██████████ estimated that the demonstration lasted approximately one minute. According to ██████████, at no time was any student in distress and he denied that any students laid on the floor. He denied that Ms. Cummings knelt any students in the back or that she applied pressure to any student using her knee. ██████████ stated that, from a personal standpoint, he would not have had an issue with his own children participating in the lesson in question. He added that it was his belief that if Ms. Cummings were African-American, the incident would have been a non-issue.

DOCUMENTARY EVIDENCE:

Written Complaint Submitted by Mother A:

The assigned investigator obtained a copy of the written complaint submitted by Mother A¹⁴ on January 17, 2018, regarding the incident in question.¹⁵ In Mother A's complaint, she states that Student A informed her that during her social studies class her teacher wanted to demonstrate "how the slaves were on the boat." Mother A reported that Student A said that her teacher instructed her to get on the floor and the teacher "put her knee into her back" and pushed down asking if Student A felt pain. Mother A stated that Student A said that she did not like the demonstration, but she had to follow directions. Mother A expressed her "disgust" with the situation and specifically with the teacher putting her knee in Student A's back and telling the students to "assume a position of a slave." Mother A alleged that the incident made Student A feel ashamed and embarrassed.

Student A's Written Statement:

The assigned investigator obtained a copy of a written statement made on January 11, 2018, regarding the incident in question.¹⁶ Student A's written statement says:

"So when I got into the class we were talking about slaves on a boat and how they had to be real close to each other on the boat but my table had the kids that liked to joke around and stuff so a boy said that he wouldn't care he would jump all the white people on the boat and other stuff then [Ms. Cummings] said get up so I can show you how it is to be squashed on a boat so she told my table to get up so we did and she told [Student D] to get on the floor sitting down with his knees

¹⁴ The assigned investigator attempted to arrange an interview with Mother A, but Mother A was unwilling to be interviewed during the course of this investigation.

¹⁵ A copy of Mother A's written statement is maintained in the case file.

¹⁶ A copy of Student A's written statement is maintained in the case file.

up then she told me and [Student E] the same. So basically we were all in front of each other with our knees up [Ms. Cummings] goes behind [Student D] and starts pushing his back with her knees and Ms. Cummings asks him does he feel anything he said I'm not gonna lie but I'm getting cramps then Ms. Cummings told him to get up so then she went to me and started pushing my back with her knees she did it like four or five times I guess because I kept saying no then I got up and she stopped the sitting down as a slave thing so [Student E] didn't really get pushed."

Written Statements Made by Students B, C, D, E, G, H, I, J, Q, R, S, T, U and V:

The assigned investigator obtained the statements written on January 11, 2018 by the listed students, regarding the aforementioned allegations.¹⁷ None of the written statements corroborate that Ms. Cummings pushed her knees into Student A's or any other students' back during the demonstration on January 10, 2018. Students E and R are the only students who indicated that Ms. Cummings made any physical contact with Student A during the demonstration. Student E's written statement says that Ms. Cummings "pressed on [Student A's] back telling her does she feel comfortable." Student R's written statement says Ms. Cummings "pushed on [Student A's] back and asked her did she feel comfortable and [Student A] said no so she told them to get up and go back to they seats."

Email Exchange between OSI and the Office of Academic Policy:

An email exchange between the assigned investigator, OSI Deputy Director Christina Nowak, Sara Shumway, Director of Academic Policy, and Chris Sandor, Chief of Staff Curriculum, Instruction and Professional Learning, occurred between April 3 and April 23, 2018.¹⁸ In the email exchange, the assigned investigator described the lessons on the Middle Passage provided by Ms. Cummings to classes 407 and 408. Mr. Sandor stated that the New York City DOE social studies curriculum for the Middle Passage lesson does not incorporate "a video clip nor do we ever include or encourage re-enactments where students take on roles of victimized people." In response to follow-up questions by OSI Deputy Director Nowak, Mr. Sandor stated, "We centrally provide curriculum that carefully considers appropriate ways to teach sensitive topics from the historical record. Lessons that digress or that teachers download from the internet can result in situations like this, especially with sensitive topics like civil rights, slavery, the holocaust, etc. We don't send guidance to teachers that says 'don't have kids role play slavery' as we want to focus on what teachers should do. Principals, APs and department chairs are the closest to teachers and are best to guide lesson plan development and what is and is not appropriate in the classroom." Furthermore, Mr. Sandor stated, "In this case the lesson taught is not what was provided and if I were to observe the lesson I would rate it unsatisfactory as well."

¹⁷ Copies of the referenced written statements are maintained in the case file.

¹⁸ A copy of the referenced email exchange is maintained in the case file.

SUBJECT:**48-Hour Notice:**

On March 9, 2018, the assigned investigator notified Ms. Cummings that she was the subject of this investigation. After serving Ms. Cummings with a 48-Hour Notice, she was explicitly instructed not to discuss the details of this investigation with anyone at the location of the alleged incident other than her union representative.

Patricia Cummings, Teacher:

On March 15, 2018, the assigned investigator interviewed Ms. Cummings in the presence of Irith Insler, a UFT representative, at OSI, regarding the aforementioned allegations.¹⁹ Ms. Cummings stated that she has been a teacher at X118 since September 2016. She explained that, on the day in question, she showed students in class 408 a five-minute video clip from a movie entitled *Freedom*, to reinforce the Middle Passage material associated with the lesson. She felt the content of the video was age appropriate and directly related to the approved curriculum. Ms. Cummings stated that she did not provide a lesson plan for this class to Principal Cox prior to the class and she did not seek approval to show the video to the class. She noted that she showed the video in class 407 and class 408. Ms. Cummings reported that [REDACTED] was present for this lesson with class 407 and [REDACTED] was present when Ms. Cummings presented the lesson to class 408. She added that [REDACTED] was present in the classroom because it was his prep period.

Ms. Cummings stated that, during the lesson in class 408, Student A was walking around the classroom and laughing during the viewing of the video. She explained that Student A mocked the contents of the video by stating that she could sit how the slaves were sitting because she sat like that all the time. According to Ms. Cummings, she began calling for student volunteers to participate in a demonstration and Students A, B, C, D and E volunteered. She noted that, after she informed students of what the demonstration entailed, Students C and E elected not to participate and she permitted them to remain in their seats. Ms. Cummings reported that Students A, B and D were seated on the floor facing front-to-back of one another with their knees raised to their chests. She explained that Student A was at the rear of the line, which is where Ms. Cummings was standing. She denied that any student laid on the floor at any time during the demonstration. Ms. Cummings described the class as engaged during the demonstration and she stated that no students were laughing or making comments at this time. Ms. Cummings stated that, when the students were seated, she asked that they "scooch" closer together. She denied that she made physical contact with any student during the demonstration and she recalled that Student D said he was getting a cramp, so she permitted him to return to his seat. Ms. Cummings reported that she concluded the demonstration after approximately 20 seconds. She explained that she told the class that the students sat in their positions for approximately one minute and she asked the students to imagine sitting like that for six to eight weeks. Ms. Cummings stated that the students then returned to their seats. Ms. Cummings reported that [REDACTED] was in and out of the classroom during the lesson for class 408 and noted that he may have witnessed the demonstration.

¹⁹ OSI Investigator [REDACTED] was present during Ms. Cummings' interview.

Ms. Cummings stated that she was served with a letter on January 16, 2018, instructing her to attend a disciplinary meeting with Principal Cox and [REDACTED]. She explained that the meeting was held on January 18, 2018. She denied that there was any discussion of corporal punishment during this meeting. Ms. Cummings also denied that she admitted to making physical contact with any student during this meeting. She added that no disposition was determined when this meeting concluded.

CONCLUSION

Student A reported that, during a lesson related to the Middle Passage in Ms. Cummings' social studies class, Ms. Cummings had her and other students sit on the floor to demonstrate the conditions on a slave ship. Student A alleged that, during this demonstration, Ms. Cummings pushed her knee into her back and into Student D's back. The written statements made by Students B, C, D, E, H, I, J, Q, R, S, T, U and V fail to corroborate that Ms. Cummings pressed her knee into Student A's back or any other students' back. Students E and R wrote in their statements that Ms. Cummings pressed on Student A's back and asked if she felt comfortable. Students B, D, E, H, I and J, all of whom were present in class 408 during the demonstration, failed to corroborate that Ms. Cummings used her knee to press on Student A's back during the demonstration. Students B, D, E, H and I stated that Ms. Cummings used either the instep of her foot or placed her hands on Student A's shoulder to scoot or nudge Student A closer to other students. Student J denied that Ms. Cummings made any physical contact with Student A during the demonstration. [REDACTED] was present in class 408 during the demonstration and stated that Ms. Cummings placed her hands on Student A's shoulders and asked her to move closer to other students. No witness interviewed during the course of this investigation indicated that Student A or any other student was in distress or in pain during the demonstration. Ms. Cummings denied that she made physical contact with Student A or any other student during the demonstration. With the exception of the allegation made by Student A, no description of the demonstration in question provided by student and staff witnesses in their written or oral statements describe conduct that constitutes corporal punishment. Therefore, the allegation that Ms. Cummings used corporal punishment against Student A by pushing her knee into her back during a classroom demonstration has not been corroborated and is **unsubstantiated**.

This office finds that Ms. Cummings acted with **poor judgment** in conducting a lesson that inadequately incorporated the New York City DOE social studies curriculum and guidance for this topic. Although teachers are not required to submit lesson plans ahead of time for approval by administration, Ms. Cummings' lessons on the Middle Passage, delivered to classes 407 and 408, were described to the Office of Academic Policy and it was determined that they significantly diverged from best-practices. Specifically, the DOE does not ever include or encourage re-enactments of historical events where students take on roles of victimized people. Some students and staff members who were present during the lessons administered by Ms. Cummings on this subject expressed their discomfort with the content of the lesson and with the manner in which Ms. Cummings conducted the lesson. Furthermore, given the sensitive nature of the topic she covered, it was particularly important for Ms. Cummings to be cognizant of the potential for her behavior to offend or create discomfort for students and staff members.

OSI Case #18-00494X


RECOMMENDATION

It is the recommendation of this office that a copy of this report be referred to Principal Cox for her review and for her to take appropriate disciplinary action against Patricia Cummings, teacher. It is further recommended that Principal Cox and the Office of Academic Policy collaborate to determine how to provide Ms. Cummings with appropriate training to ensure her lesson plans are developed in a manner that takes into account potential social and cultural sensitivities.

SUBMITTED BY:


William Deininger
Confidential Investigator

APPROVED BY:


Jaclyn B. Vargo
Director